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SUBJECT: December 17 Meeting of TNC

11. Summary. At a meeting of the Trade Negotiations Committee (TNC) on December 17, 2008 WTO Director General Lamy recognized with disappointment that it is not possible to conclude the Agriculture and NAMA modalities before the end of the year, but stressed the need to continue work in early 2009 toward concluding the Doha Round while defending the rules of the multilateral trading system. Agriculture and NAMA consultations will resume early in the new year based on the latest draft texts issued on December 6, and Members will also restart work in the other negotiating areas. DG Lamy also announced the WTO will use the Trade Policy Review Body (TPRB) to provide a forum where Members can monitor and discuss any trade restricting measures taken since the financial crisis. Lamy mentioned that several Members had raised the possibility of an early harvest for Trade Facilitation, Duty Free Quota Free (DFQF), cotton, and bananas. Agriculture Chair Crawford Falconer said he was convinced that the remaining differences in Agriculture are bridgeable and announced plans for an Open Ended meeting early in 2009 to allow for a bottom-up exercise to go through the text. Falconer also said that if there were to be an early harvest, it should include cotton. NAMA Chair Luzius Wasescha said the major outstanding issues were sectoral agreements and requests for specific flexibilities by Argentina, South Africa, and Venezuela and announced plans for an Open Ended in January. The Chairs of other Negotiating Groups made brief statements on the state of play on their issues, with the Rules Chair announcing forthcoming texts this week. Forty-two countries made interventions, with most expressing support for DG Lamy's call to continue work toward Modalities in Agriculture and NAMA in the new year and to resume other key areas of negotiations. Despite widely shared disappointment with the current state of affairs, Members refrained from finger pointing. Members' views differed on the idea of an early harvest and what it should include. There were a number of calls by Members for a full meeting of the Ministerial Conference to be held by the end of next year, and Switzerland offered to host it. The Swiss also pointed to the annual Trade Minister meeting they will hold in Davos in January as a first opportunity for Ministers to take stock and reengage. End Summary.

#### DG LAMY'S STATEMENT

12. DG Lamy reported that Members' overall positions on sectorals, cotton, and the Special Safeguard Mechanism (SSM) had not changed enough to warrant calling a Ministerial this year. Though Members were not far from an agreement on these issues, the necessary political drive to close the remaining gaps was lacking. Looking ahead, conclusion of the Round should remain the focus for 2009. Members should resume work to conclude modalities in Agriculture and NAMA based on the revised texts, continue to make progress on the other negotiating areas, and work to strengthen the relevance of the WTO in the global economic system-beyond just providing a forum for negotiations. Lamy reported some Members had raised the possibility of an early harvest for Trade Facilitation, Duty Free Quota Free (DFQF), cotton, and bananas, noting that Trade Facilitation warrants some acceleration since it has the greatest consensus. He did not offer a personal view on the idea of an early harvest but noted that the areas suggested warrant priority attention, starting with Trade Facilitation.

13. Beyond negotiations, Lamy reminded Members that the WTO has a responsibility to follow up on commitments made by world Leaders to

avoid taking trade protectionist measures during the financial crisis. He proposed the TPRB as a forum for Members to monitor and discuss trade restrictive measures. The first such review of the TPRB will take place in the second half of January. (Bolivia subsequently raised concerns in the General Council about establishing this mechanism without prior consultation among Members, so it appears that the General Council Chair will hold consultations on this early in the new year.) Lamy also agreed to proposals by Egypt and Japan to report periodically on the findings of the Secretariat's financial crisis task force, with the first report coming this week. The WTO will also continue to monitor trade finance and continue efforts to develop a clear roadmap for Aid for Trade. On the latter, the WTO needs to keep the focus on trade mainstreaming in national development policies and keep pressure on donors for the mobilization of funds, particularly in light of the global financial crisis. Lamy also mentioned that Members needed to discuss when to schedule the next regular meeting of the Ministerial Conference and that the GC Chair would consult with Members to get their views.

#### NEGOTIATING GROUP CHAIRS' STATEMENTS

14. Agriculture Chair Falconer expressed his hope that the emerging consensus in the latest text would not be lost in the coming months. He identified cotton, sensitive products, tariff rate quota (TRQ) creation, tropical products, preferences, and remaining high tariffs in developed countries as the areas where most of the remaining work is needed. If there is to be any early harvest, it should be for cotton. One of Falconer's regrets in his revised text was that he could not include results on tropical products and preference erosion, but he expressed hope the July agreement could be the basis for a deal once the EC and the Latin countries worked out their differences on bananas. He plans to hold an Open-Ended in the new year to go through the text and then restart the cycle of Open-Ended and issue-specific work.

15. NAMA Chair Wasescha gave a short report commenting on the status of discussions about country-specific flexibilities and providing a work program for 2009. On Argentina and Venezuela, Wasescha said that members need to examine specific details about the use of flexibilities. On South African Customs Union, he described a proposal based on discussions with members: a Swiss coefficient of 20 with 18 percent half-cut flexibilities and 5 years of grace on textiles, apparel, and footwear or a Swiss coefficient of 22 with 16 percent half-cut flexibilities and three years of grace on textiles and apparel. (Note: South Africa later discredited this proposal insisting that it still needs 3 percent of no-cut flexibilities, in addition to 16 percent half cut flexibilities and harshly criticizing the U.S. and EC for their lack of understanding of their special situation.) Wasescha reported that he will hold an Open-Ended meeting on his new text in early January and will resume small group meetings. The negotiating group will also look at data to help Members assess the value of the concessions in the text. He will consult with members on how to advance non-tariff barrier discussions and will hold consultations with members on the key remaining hurdle, sectoral agreements.

16. The Services Chair reported that the situation was unchanged from July but that he intended to restart meetings in early 2009 to build on the progress made during the July signaling conference.

17. The Rules Chair said that he would issue new draft texts on antidumping, horizontal subsidies, and a roadmap of fisheries subsidies in the coming days. He also announced that he would be convening Members early next year to start conducting an initial review of the transparency mechanism for Regional Trade Agreements (RTAs) and would also elicit views from the Chairs of the Committee on RTAs and the Committee on Trade and Development and the Secretariat on their experience so far in implementing the mechanism.

18. The TRIPS Special Session Chair announced his intention to intensify work in January and mentioned he might do papers to help focus on specific issues, leading to a draft text.

19. The Trade and Environment Chair reiterated the work programs he had laid out in July for all elements of paragraph 31, noted that the intermittent time period had permitted capitals to do necessary

internal analytical work on environmental goods of interest, and expressed hope that delegations will be better prepared to offer their submissions on environmental goods in the new year.

¶10. The Trade and Development Special Session Chair noted some progress in clarifying thoughts on the Agreement-specific proposals and the Monitoring Mechanism but that no new revised language has been achieved. He plans to continue work on all elements in the Hong Kong mandate in 2009 and will resume meetings in the third week of January.

¶11. The Trade Facilitation Chair announced plans for a meeting in late February and suggested that Members needed to consolidate multiple proposals into single documents and improve their proposals to reflect commonalities.

#### INTERVENTIONS BY MEMBERS

¶12. Cote d'Ivoire on behalf of the Africa Group, Jamaica on behalf of the ACP Group, and Tanzania on behalf of the LDC Group welcomed the new Agriculture and NAMA texts as reflecting the current state of negotiations while raising some persistent concerns on remaining issues. On Agriculture, the Africa and LDC Groups stressed the importance of resolving cotton and welcomed some progress in SSM, and the ACP Group stressed the importance of bananas and tropical products. On NAMA, the ACP Group emphasized sectorals should be voluntary. On preference erosion, Tanzania reported that the LDCs do not have a consensus on the issue of disproportionately affected (DA), and Cote d'Ivoire called for a just solution that is based on the reality of export statistics. All three Groups raised concerns about sectorals that cover products in the preference erosion solution, and they supported cotton for early harvest. The Africa Group raised the importance of making progress in Rules, Services, and Trade Facilitation, while the ACP Group urged caution in proceeding with Trade Facilitation as an early harvest because of the additional work needed on capacity building and special and differential treatment. South Africa supported cotton and DFQF as early harvests, and Egypt supported cotton for early harvest, saying Trade Facilitation is not ready yet. Burkina Faso on behalf of the Cotton-Four supported an early harvest for cotton.

¶13. Indonesia on behalf of the G-33 agreed the draft texts were a good basis for further work in Agriculture and NAMA and said that the G-33 has shown flexibility as demonstrated by recent progress on the issues of Special Products and SSM. The underlying principle of SSM is that it should be simple, effective, and not burdensome and must provide a safeguard to the most vulnerable. The latest Agriculture text has captured some of this, but more intensive work is needed. Barbados on behalf of the Small and Vulnerable Economies (SVEs) supported the G33 statement on SSM, regretting there has been no discussion of additional SSM flexibilities for SVEs.

¶14. Brazil on behalf of the G-20 noted the gap in political will to conclude a deal and emphasized that Agriculture is the key to the Round. While supporting the new Agriculture text as the basis for negotiations, Brazil noted that the unbracketed numbers on overall trade distorting support (OTDS) represents a conditional position and expressed concern that developed countries have reduced the level of ambition in market access and domestic support. Speaking on its own behalf, Brazil said that the failure to reach modalities can be explained by excessive ambition and new calls for concessions that came in late in the negotiations, clearly referring to the United States position on NAMA sectorals. On early harvest, Brazil urged caution, expressing concern about the potential impact on the Single Undertaking.

¶15. The EC emphasized the need to resume work in early 2009 on Agriculture and NAMA modalities based on the latest draft texts and to pursue further progress in Services, the three TRIPS issues, Trade Facilitation, and Rules. They said they were open to an early harvest in Trade Facilitation. Canada pushed for work to continue on Rules, Services, and Trade Facilitation, and Japan also stressed the need to advance negotiations on Rules and Services. The EC, Canada, Japan, and many others also supported Lamy's call for the TPRB to monitor trade restrictive measures in a transparent way.

¶16. The United States representative welcomed the draft Agriculture and NAMA texts and stressed that the primary focus of the WTO should

be to conclude the Doha Round, especially in light of the current economic crisis. All negotiating groups should resume work in the new year, with Services, Trade Facilitation, fish subsidies, and environmental goods and services being important ingredients in any final Doha agreement. He also supported Lamy's idea for public monitoring of new restrictive trade measures. Emphasizing the importance of Aid for Trade as a complementary activity to the negotiating mandate, he announced that the US increased annual Aid for Trade spending to 2.3 billion in fiscal year 2008, an increase of 60 percent from the previous year. He closed by assuring Members that Washington is working very closely with the Obama transition team to ensure that early attention is given to the DDA by the new administration.

¶17. Ecuador, Colombia, Costa Rica, Guatemala, and Honduras raised the issue of bananas and the EC's failure to comply with the July agreement. Ecuador threatened cross retaliation, possibly in the areas of Services and Intellectual Property, and possible new litigation on the legality of the EU's Economic Partnership Agreements (EPAs) and certain EU subsidies.

¶18. Venezuela, Bolivia, and Cuba made statements criticizing the lack of transparency in the small group negotiations on Agriculture and NAMA and emphasizing the need to focus on development in the Doha Round. Venezuela criticized Members who talk about the need to avoid protectionism and yet are practicing it by subsidizing the car industry, banks, and others. There seems to be a double standard where subsidies seem to be the good kind of protectionism, while tariffs are the bad kind.

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